LIBRARY
SUPREME COURT, U. S.

SUPREME COURT, U.S.
FILED
MAY 6 1969
JOHN F. DAVIS, CLERK

IN THE SUPREME COURT OF THE UNITED STATES

October Term, 1967

No. 1335

RONALD KENT HOOPER AND
PURVIS OLE SCROGGS,

Petitioners,

vs.

THE HONORABLE WILLIAM H. GOODING,
Judge of the Superior Court of The State of Arizona; and
STATE OF ARIZONA, by ROBERT K. CORBIN,
County Attorney of Maricopa County,

Respondents.

BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF ARIZONA

DARRELL F. SMITH
The Attorney General of
Arizona

NORVAL C. JESPERSON
Assistant Attorney General
159 Capitol Building
Phoenix, Arizona

MARK WILMER
Special Assistant Attorney
General
400 Security Building
Phoenix, Arizona 85004

Attorneys for Respondents.

IN THE SUPREME COURT OF THE UNITED STATES

October Term, 1967

No. 1335

RONALD KENT HOOPER AND
PURVIS OLE SCROGGS,

Petitioners,

vs.

THE HONORABLE WILLIAM H. GOODING,
Judge of the Superior Court of The State of Arizona; and
STATE OF ARIZONA, by ROBERT K. CORBIN,
County Attorney of Maricopa County,

Respondents.

BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF ARIZONA

QUESTIONS PRESENTED

I

Does a Judge of a United States District Court have jurisdiction to intermeddle in a routine state criminal prosecution by granting relief directed to a County Attorney and a Magistrate absent a showing of irreparable injury to federally protected rights which is clear and imminent?

II

Does a refusal by an inferior court to act by either granting or withholding interlocutory relief constitute a "final judgment or decree" within the meaning of 28 U.S.C. 1257?

STATEMENT OF THE CASE

Respondent Robert K. Corbin, County Attorney, Maricopa County, Arizona, refers to and incorporates the Statement of the Case as made in companion case No. 1334 herein as the Statement of the Case in this matter.

ARGUMENT

QUESTION I

The cases cited in Brief in Opposition to Writ of Certiorari to the United States Court of Appeals for the Ninth Circuit in Cause No. 1334 herein, are incorporated herein by reference as responsive to Question I.

QUESTION II

Section 28 U.S.C. 1257 clearly requires a final decree or judgment. The Arizona Supreme Court's refusal to consider the application for a Writ of Mandamus was merely a disposition of "an interlocutory or intermediate step of the litigation." (Appendix A, p. 6, Pet. for Cert., Ariz. Supreme Court).

Market Street Ry. Co. v. Railroad Commission of State of Calif., 65 S.Ct. 770, 324 U.S. 548, 89 L.Ed. 1171, rehearing denied 65 S.Ct. 1020, 324 U.S. 890, 89 L.Ed. 1438

Montgomery Bldg. & Const. Trades Council v. Ledbetter Erection Co., 73 S.Ct. 196, 344 U.S. 178, 97 L.Ed. 204.

CONCLUSION

The Petition should be denied.

Respectfully submitted,

DARRELL F. SMITH
The Attorney General of Arizona

NORVAL C. JESPERSON
Assistant Attorney General
159 Capitol Building
Phoenix, Arizona

MARK WILMER
Special Assistant Attorney General
400 Security Building
Phoenix, Arizona 85004
Attorneys for Respondents

May 1968

INDEX

	Page
QUESTIONS PRESENTED	1
STATEMENT OF THE CASE	2
ARGUMENT	2
CONCLUSION	3

TABLE OF CASES AND AUTHORITIES CITED

Page

Cases:

Market Street Ry. Co. v. Railroad Commission of State of Calif., 65 S.Ct. 770, 324 U.S. 548, 89 L.Ed. 1171, rehearing denied 65 S.Ct. 1020, 324 U.S. 890, 89 L.Ed. 1438 2

Montgomery Bldg. & Const. Trades Council v. Ledbetter Erection Co., 73 S.Ct. 196, 344 U.S. 178, 97 L.Ed. 204 2

Federal Statutes:

28 U.S.C. 1257 2